IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RBH ENERGY, LLC,	§	Case No.: _________________
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
	§	JURY TRIAL DEMANDED
OUR COUNTRY HOMES, INC.	§	
	§	
Defendant.	§	

ORIGINAL COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff RBH Energy, LLC ("RBH"), by counsel, alleges as follows for its Original Complaint for Copyright Infringement against Defendant Our Country Homes, Inc. ("Defendant"), and request relief from this Court based on the following:

THE PARTIES

1. Plaintiff RBH is a Texas limited liability company with its principal place of business located at 2908 Windstone Court, Bedford, TX 76021.

2. Defendant Our Country Homes, Inc. is a Texas for-profit corporation with its principal place of business located at 700 W. Harwood Dr., Suite G-2, Hurst, TX 76054. It can be served through its registered agent for service of process, Stephen L. Polozola, who is located at Burnett Plaza, Suite 2000, 801 Cherry Street, Unit #46, Fort Worth, TX 76102-6836.

JURISDICTION AND VENUE

3. This is a suit for copyright infringement under the United States Copyright Act of 1976, 17 U.S.C. § 101, *et seq*.

4. This Court has jurisdiction over Plaintiff's claims for copyright infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2) and 1400(a).

BACKGROUND

6. RBH realleges paragraphs 1 through 5 as if fully set forth herein.

7. RBH is the owner of U.S. Copyright No. VAu 722-458 ("Copyright") titled Brian Harness Photography Collection 2007 Vol. IV. A true and correct copy of the copyright is attached hereto as Exhibit A.

8. The named artist of the Copyright is Brian Harness ("Harness"). *See id*.

9. Because Mr. Harness's income and livelihood as an independent, professional photographer depends, in part, on his ability to control the use of his intellectual property, including the photographs covered by the Copyright, Harness is diligent in obtaining registered copyrights and enforcing those copyrights against unlawful use, including the unlawful use by the Defendant in this matter.

10. On February 2, 2016, Harness assigned the Copyright to RBH. A true and correct copy of the assignment is attached hereto as Exhibit B at ¶ 4.

11. Harness, a professional photographer, is the sole member of RBH.

12. A copy of one of the photographs, which was filed as part of the Copyright, is depicted below michael-johnson4517:

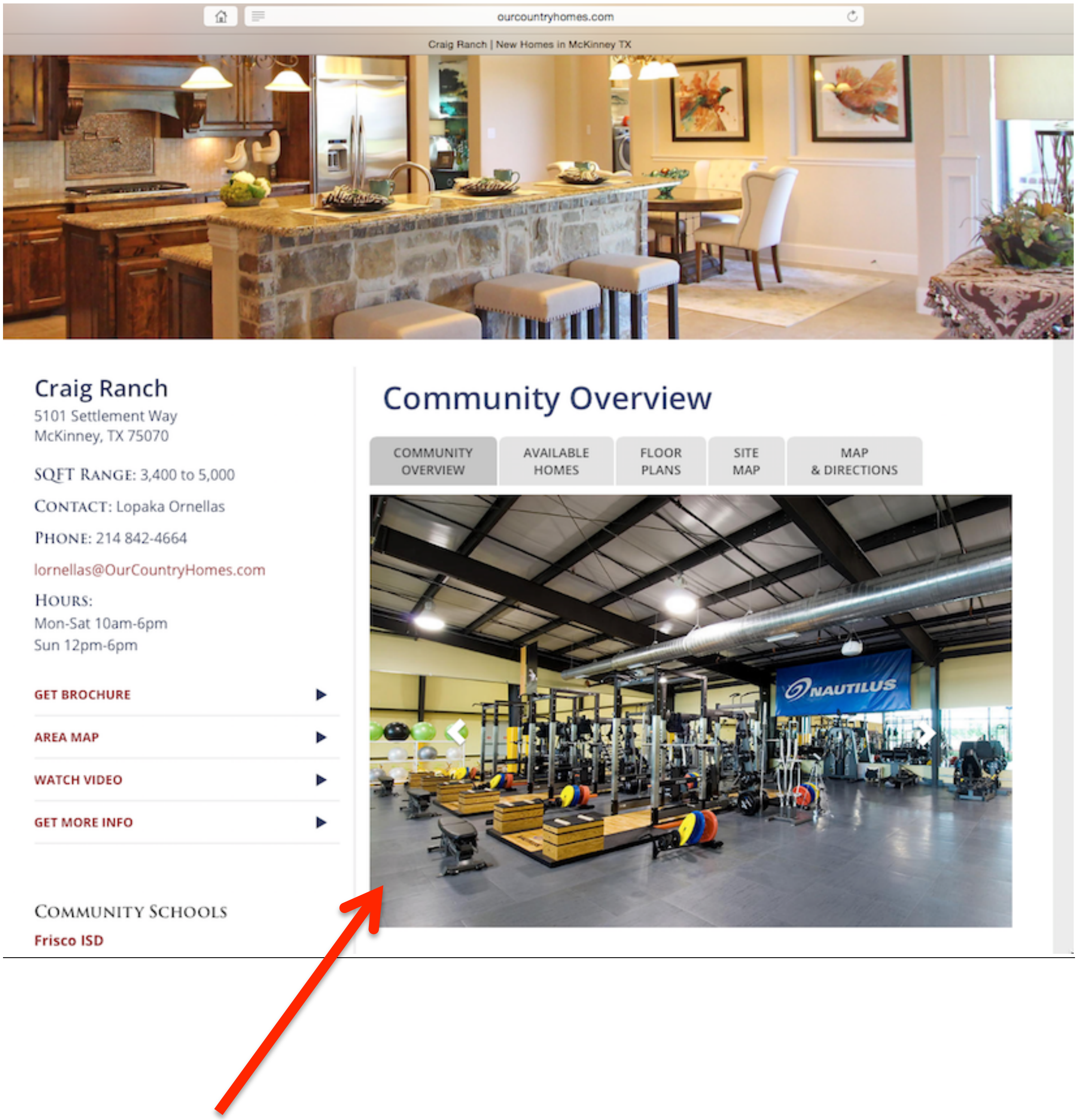
NAUTILUS
©BRIAN HARNESS 2007

13. A copy of one of the photographs, which was filed as part of the Copyright, is depicted below michael-johnson4552:

©BRIAN HARNESS 2007

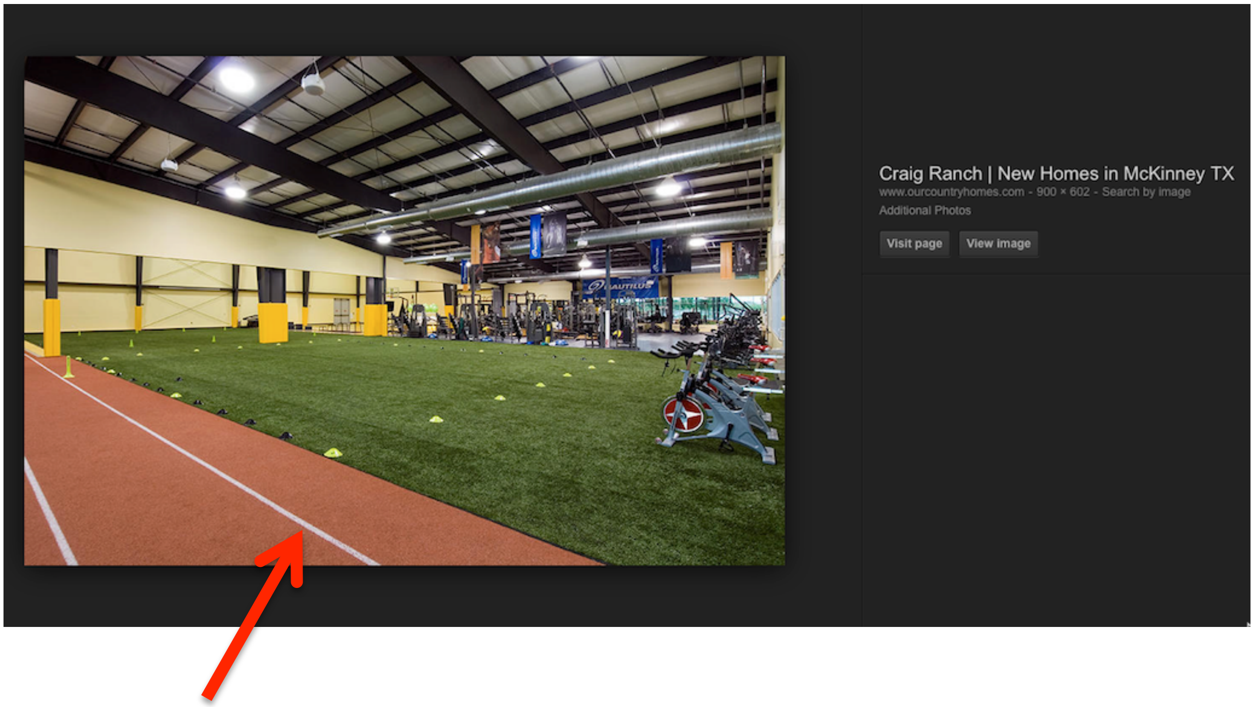
14. In promotion of its business, Defendant, without permission from Harness or RBH, misappropriated this photograph and included the copyrighted photographs on its website.

15. A true and correct copy of the screenshots of Defendant's web page displaying michael-johnson4517 is attached hereto as Exhibit C:


ourcountryhomes.com
Craig Ranch | New Homes in McKinney TX
Craig Ranch
5101 Settlement Way
McKinney, TX 75070
SQFT RANGE: 3,400 to 5,000
CONTACT: Lopaka Ornellas
PHONE: 214 842-4664
lornellas@OurCountryHomes.com
HOURS:
Mon-Sat 10am-6pm
Sun 12pm-6pm
GET BROCHURE
AREA MAP
WATCH VIDEO
GET MORE INFO
COMMUNITY SCHOOLS
Frisco ISD
Community Overview
COMMUNITY OVERVIEW
AVAILABLE HOMES
FLOOR PLANS
SITE MAP
MAP & DIRECTIONS
NAUTILUS

16. The photograph, noted above, remains on Defendant's web pages through today.

17. A true and correct copy of the screenshots of Defendant's web page displaying michael-johnson4552 is attached hereto as Exhibit D:


Craig Ranch | New Homes in McKinney TX
www.ourcountryhomes.com - 900 × 602 - Search by image
Additional Photos
Visit page
View image

18. The photograph, noted above, remains on Defendant's web page through today.

19. Because Defendant had no permission to use the protected photographs, Defendant is liable for direct copyright infringement.

COUNT 1 – DIRECT COPYRIGHT INFRINGEMENT

20. RBH realleges paragraphs 1 through 19 as if set fully herein.

21. RBH alleges Defendant is liable for direct copyright infringement pursuant to 17 U.S.C. 501(a).

22. RBH has been damaged by Defendant's actions.

DEMAND FOR JURY TRIAL

Pursuant to FED. R. CIV. P. 38 and the 7th amendment of the U.S. Constitution, a trial by jury is hereby demanded.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff RBH Energy, LLC demands that:

a. Defendant be found liable for direct copyright infringement;
b. Defendant be enjoined from reproducing, administering, displaying, or publishing RBH's copyrighted works;
c. Defendant be ordered to pay statutory damages pursuant to 17 U.S.C. § 504;
d. Defendant pay RBH's reasonable attorney's fees and costs of this action, pursuant to 17 U.S.C. § 505;
e. Defendant pay pre-judgment and post-judgment interest on any damages awarded; and
f. The Court award Plaintiff all other relief it deems justified.

Further, Plaintiff RBH Energy, LLC also reserves all of its rights to elect alternative remedies, including election of actual damages, as permitted by law.

Dated: May 15, 2017

Respectfully submitted,

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